

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DYLAN NAYA VALENCIA,

Defendant.

CR 23-34-M-DLC

ORDER

Before the Court is United States Magistrate Judge Kathleen L. DeSoto's Findings & Recommendation Concerning Plea. (Doc. 27.) Because neither party objected, they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Therefore, the Court reviews the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Valencia is charged with three counts of theft from a federal firearms licensee, in violation of 18 U.S.C. § 922(u) (Counts 1, 3, 6), and four counts of possession/transportation of a stolen firearm, in violation of 18 U.S.C. § 922(j), (i) (Counts 2, 4, 5, 7), as set forth in the Indictment. (Doc. 1.) Judge DeSoto

recommends that this Court accept Valencia's guilty plea as to Counts 1, 3, and 6 after Valencia appeared before her pursuant to Federal Rule of Criminal Procedure 11. The Court finds no clear error in Judge DeSoto's Findings and Recommendation and adopts them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Judge DeSoto's Findings and Recommendation (Doc. 27) is ADOPTED in full.

IT IS FURTHER ORDERED that Valencia's motion to change plea (Doc. 20) is GRANTED.

IT IS FURTHER ORDERED that Valencia is adjudged guilty as charged in Counts 1, 3, and 6 of the Indictment.

DATED this 8th day of March, 2024.



Dana L. Christensen, District Judge
United States District Court